

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-1026-MLM-E TCEQ ID: RN105456040 CASE NO.: 36087
RESPONDENT NAME: GENESIS QUALITY AGGREGATES, LTD.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 8035 North US Highway 277, Maverick County</p> <p>TYPE OF OPERATION: Sand and gravel processing plant</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: One complaint was received, alleging that an excessive amount of dust was leaving the site. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: The complainant has not expressed a desire to protest this action or speak at agenda. No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired June 2, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Mr. Tommy Tucker Henson II, Litigation Division, MC 175, (512) 239-0946 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. James Nolan, Air Enforcement Section, MC 149, (512) 239-6634</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Ms. Rose Luna-Pirtle Laredo Regional Office, MC R-16, (956) 753-4052</p> <p style="margin-left: 20px;">Respondent: Mr. Jose Flores, General Manager, Genesis Quality Aggregates, Ltd., 2149 Del Rio Boulevard, Suite 101, Eagle Pass, Texas 78852</p> <p style="margin-left: 20px;">Respondent's Attorney: Not represented by counsel on this enforcement matter.</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: April 9, 2008</p> <p>Date of Investigation Relating to this Case: April 11, 2008</p> <p>Date of NOE Relating to this Case: May 20, 2008</p> <p>Background Facts: The EDPRP was filed on December 18, 2008. The agreed order was signed on February 24, 2009.</p> <p>Current Compliance Status: NSR permit no. 84019L001 is pending approval; the comment period expired June 22, 2009. The Respondent has not yet submitted an NOI or SWP3.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to obtain authorization for a source of air emissions [30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a)]. Failed to maintain visible emissions below the maximum allowable quantity of 30% opacity over a six minute average [30 TEX. ADMIN. CODE § 111.111(a)(8)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b)]. Failed to obtain authorization to discharge storm water associated with industrial activities, as documented April 11, 2008 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CFR § 122.26(c)]. 	<p>Total Assessed: \$5,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$400/\$4,600</p> <p>The Respondent paid \$400 of the administrative penalty. The remaining amount of \$4,600 shall be payable in 23 monthly payments of \$200 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provision(s):</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Respond completely and adequately to all requests for information concerning permit application no. 84019L001 within 30 days of the request or as specified in writing therein. Within 30 days: <ol style="list-style-type: none"> Implement improvements to design, operation or maintenance procedures, in order to address the opacity events; and Develop and implement a Storm Water Pollution Prevention Plan and submit Notice of Intent letter with associated fees. Within 45 days, submit written certification demonstrating compliance with ordering provision nos. 2.a. and b. Within 90 days, submit written certification that authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

TCEQ

DATES

Assigned 27-May-2008

PCW 10-Nov-2008

Screening 4-Jun-2008

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent Genesis Quality Aggregates, Ltd.

Reg. Ent. Ref. No. RN105456040

Facility/Site Region 16-Laredo

Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No. 36087

Docket No. 2008-1026-MLM-E

Media Program(s) Air

Multi-Media Water Quality

No. of Violations 3

Order Type 1660

Government/Non-Profit No

Enf. Coordinator James Nolan

EC's Team Enforcement Team 4

Admin. Penalty \$ Limit Minimum

\$0

Maximum

\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 0.0% Enhancement

Subtotals 2, 3, & 7 \$0

Notes

No penalty enhancement due to average classification.

Culpability

No

0.0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5 \$0

Economic Benefit

0.0% Enhancement*

Subtotal 6 \$0

Total EB Amounts

\$226

Approx. Cost of Compliance

\$4,750

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$5,000

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$5,000

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$5,000

DEFERRAL

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY

\$5,000

Screening Date 4-Jun-2008

Docket No. 2008-1026-MLM-E

PCW

Respondent Genesis Quality Aggregates, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 36087

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105456040

Media [Statute] Air

Enf. Coordinator James Nolan

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No penalty enhancement due to average classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 4-Jun-2008		Docket No. 2008-1026-MLM-E		PCW
Respondent Genesis Quality Aggregates, Ltd.		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 36087		<i>PCW Revision June 12, 2008</i>		
Reg. Ent. Reference No. RN105456040				
Media [Statute] Air				
Enf. Coordinator James Nolan				
Violation Number		<div style="border: 1px solid black; padding: 2px;">1</div>		
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 116.110(a) and Tex. Health & Safety Code §§ 382.085(b) and 382.0518(a)</div>		
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to obtain authorization for a source of air emissions, as documented during an investigation conducted on April 11, 2008. Specifically, the Respondent failed to obtain a permit prior to the operation of a Caterpillar 3412C TA Engine.</div>		
Base Penalty				<div style="border: 1px solid black; padding: 2px;">\$10,000</div>
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Major	Moderate	Minor	
	Actual	Potential	Percent	<div style="border: 1px solid black; padding: 2px;">0%</div>
	Potential	Percent	<div style="border: 1px solid black; padding: 2px;">0%</div>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	x			
	Percent			<div style="border: 1px solid black; padding: 2px;">10%</div>
Matrix Notes	100% of the rule requirement was not met.			
Adjustment				<div style="border: 1px solid black; padding: 2px;">\$9,000</div>
				<div style="border: 1px solid black; padding: 2px;">\$1,000</div>
Violation Events				
Number of Violation Events		<div style="border: 1px solid black; padding: 2px;">2</div>	Number of violation days	
		<div style="border: 1px solid black; padding: 2px;">54</div>		
mark only one with an x	daily			
	monthly	x		
	quarterly			
	semiannual			
	annual			
	single event			
Violation Base Penalty		<div style="border: 1px solid black; padding: 2px;">\$2,000</div>		
Two monthly events are recommended from the investigation date (April 11, 2008) to the date of screening (June 4, 2008).				
Good Faith Efforts to Comply		<div style="border: 1px solid black; padding: 2px;">0.0% Reduction</div>		<div style="border: 1px solid black; padding: 2px;">\$0</div>
		Before NOV NOV to EDPRP/Settlement Offer		
Extraordinary				
Ordinary				
N/A		x	(mark with x)	
Notes		The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal				<div style="border: 1px solid black; padding: 2px;">\$2,000</div>
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$69</div>	Violation Final Penalty Total	
			<div style="border: 1px solid black; padding: 2px;">\$2,000</div>	
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px;">\$2,000</div>

Economic Benefit Worksheet**Respondent** Genesis Quality Aggregates, Ltd.**Case ID No.** 36087**Reg. Ent. Reference No.** RN105456040**Media** Air**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$1,500	11-Apr-2008	11-Mar-2009	0.92	\$69	n/a	\$69
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a permit application and obtain authorization to operate the Caterpillar 3412C TA Generator. Date required is the date non-compliance was documented. Final date is the projected date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$1,500

TOTAL

\$69

Screening Date 4-Jun-2008

Docket No. 2008-1026-MLM-E

PCW

Respondent Genesis Quality Aggregates, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 36087

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN105456040

Media [Statute] Air

Enf. Coordinator James Nolan

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 111.111(a)(8)(A) and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to maintain visible emissions below the maximum allowable quantity of 30% opacity over a six minute average, as documented during an investigation conducted on April 11, 2008. Specifically, opacity measurements following EPA Method 9 guidelines averaged 73.75% opacity over a six minute period.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

54 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,000

One single event is recommended based on the date of investigation.

Good Faith Efforts to Comply

0.0%

Reduction

\$0

Before NOV NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$43

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Genesis Quality Aggregates, Ltd.
Case ID No. 36087
Reg. Ent. Reference No. RN105456040
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$500	11-Apr-2008	11-Mar-2009	0.92	\$2	\$31	\$32
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	11-Apr-2008	11-Mar-2009	0.92	\$11	n/a	\$11
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain compliance. Date required is the date non-compliance was documented. Final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$750

TOTAL

\$43

Screening Date 4-Jun-2008		Docket No. 2008-1026-MLM-E		PCW																	
Respondent Genesis Quality Aggregates, Ltd.		<i>Policy Revision 2 (September 2002)</i>																			
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Reg. Ent. Reference No. RN105456040																					
Media [Statute] Air																					
Enf. Coordinator James Nolan																					
Violation Number		<div style="border: 1px solid black; padding: 2px;">3</div>																			
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)</div>																			
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	monthly	X																			
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
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	Before NOV	NOV to EDPRP/Settlement Offer																			
Extraordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
Ordinary	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																			
N/A	X	(mark with x)																			
Notes		<div style="border: 1px solid black; padding: 2px;">The Respondent does not meet the good faith criteria for this violation.</div>																			
Violation Subtotal				<div style="border: 1px solid black; padding: 2px;">\$2,000</div>																	
Economic Benefit (EB) for this violation		Statutory Limit Test																			
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$114</div>	Violation Final Penalty Total <div style="border: 1px solid black; padding: 2px;">\$2,000</div>																		
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px;">\$2,000</div>																	

Economic Benefit Worksheet

Respondent Genesis Quality Aggregates, Ltd.

Case ID No. 36087

Reg. Ent. Reference No. RN105456040

Media Air

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description No commas or \$						

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$500	11-Apr-2008	11-Mar-2009	0.92	\$23	n/a	\$23
Other (as needed)	\$2,000	11-Apr-2008	11-Mar-2009	0.92	\$92	n/a	\$92

Notes for DELAYED costs

Estimated cost to obtain authorization to discharge storm water and develop and implement a storm water pollution prevention plan. Date required is the date non-compliance was documented. Final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,500

TOTAL

\$114

Compliance History

Customer/Respondent/Owner-Operator:	CN603271230	GENESIS QUALITY AGGREGATES, LTD.	Classification:	Rating:
Regulated Entity:	RN105456040	GENESIS ROCK CRUSHING FACILITY 1	Classification:	Site Rating:
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT		84019L001
Location:	8035 N US HWY 277, EAGLE PASS, TX, 78852			
TCEQ Region:	REGION 16 - LAREDO			
Date Compliance History Prepared:	June 23, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 04, 2003 to June 04, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	James Nolan	Phone:	(512) 239-6634	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | No |
| 3. If Yes, who is the current owner? | N/A |
| 4. If Yes, who was/were the prior owner(s)? | N/A |
| 5. When did the change(s) in ownership occur? | N/A |

Components (Multimedia) for the Site :

- | | |
|------------------------|---|
| A. | Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government. |
| | N/A |
| B. | Any criminal convictions of the state of Texas and the federal government. |
| | N/A |
| C. | Chronic excessive emissions events. |
| | N/A |
| D. | The approval dates of investigations. (CCEDS Inv. Track. No.) |
| | N/A |
| E. | Written notices of violations (NOV). (CCEDS Inv. Track. No.) |
| | N/A |
| F. | Environmental audits. |
| | N/A |
| G. | Type of environmental management systems (EMSs). |
| | N/A |
| H. | Voluntary on-site compliance assessment dates. |
| | N/A |
| I. | Participation in a voluntary pollution reduction program. |
| | N/A |
| J. | Early compliance. |
| | N/A |
| Sites Outside of Texas | |
| | N/A |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
GENESIS QUALITY
AGGREGATES, LTD.;
RN105456040**

§
§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-1026-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Genesis Quality Aggregates, Ltd. ("Genesis") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 382. The Executive Director of the TCEQ, represented by the Litigation Division, and Genesis, represented by Jose J. Ruiz of the law firm of Jose J. Ruiz and Associates, P.C., appear before the Commission and together stipulate that:

1. Genesis owns and operates a sand and gravel processing plant located at 8035 North US Highway 277, Maverick County, Texas (the "Plant").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 382 and TCEQ rules.
3. The Commission and Genesis agree that the Commission has jurisdiction to enter this Agreed Order, and that Genesis is subject to the Commission's jurisdiction.
4. Genesis received notice of the violations alleged in Section II ("Allegations") on or about May 25, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Genesis of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of five thousand dollars (\$5,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Genesis

paid four hundred dollars (\$400.00) of the administrative penalty. The remaining amount of four thousand six hundred dollars (\$4,600.00) of the administrative penalty shall be payable in 23 monthly payments of two hundred dollars (\$200.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Genesis fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Genesis's failure to meet the payment schedule of this Agreed Order constitutes the failure by Genesis to timely and satisfactorily comply with all of the terms of this Agreed Order.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Genesis have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Genesis has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on April 11, 2008, a TCEQ Laredo Regional Office investigator documented that Genesis violated:
 - a. 30 TEX. ADMIN. CODE § 116.110(a) and TEX. HEALTH & SAFETY CODE §§ 382.085(b) and 382.0518(a) by failing to obtain authorization for a source of air emissions, as documented on April 11, 2008.

- b. 30 TEX. ADMIN. CODE § 111.111(a)(8)(A) and TEX. HEALTH & SAFETY CODE § 382.085(b), by failing to maintain visible emissions below the maximum allowable quantity of 30% opacity over a six minute average, as documented on April 11, 2008.
 - c. 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), by failing to obtain authorization to discharge storm water associated with industrial activities, as documented on April 11, 2008.
2. Genesis received notice of the violations on or about May 25, 2008.

III. DENIALS

Genesis generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Genesis pay an administrative penalty as set forth in Section I, Paragraph 6, above. The payment of this administrative penalty and Genesis's compliance with all the terms and conditions set forth in this Agreed Order resolve only the Allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Genesis Quality Aggregates, Ltd., Docket No. 2008-1026-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Genesis shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, Genesis shall respond completely and adequately, as determined by the TCEQ, to all requests for information concerning permit application no. 84019L001 within 30 days after the date of such requests, or by any other deadline specified in writing;
 - b. Within 30 days after the effective date of this Agreed Order, Genesis shall implement improvements to the design, operation, or maintenance procedures, in order to address the opacity events that were documented on April 11, 2008, and to prevent the reoccurrence of same or similar incidents;

- c. Within 30 days after the effective date of this Agreed Order, Genesis shall develop and implement a Storm Water Pollution Prevention Plan and submit a Notice of Intent letter and associated fees to comply with Multisector General Permit requirements, in accordance with 30 TEX. ADMIN. CODE § 281.25(a)(4) to:

Storm Water and Pretreatment Team, MC 148
Water Quality Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- d. Within 45 days after the effective date of this Agreed Order, Genesis shall submit written certification of compliance with Ordering Provision Nos. 2.b. and 2.c., as described in Ordering Provision 2.f.
- e. Within 90 days after the effective date of this Agreed Order, Genesis shall submit written certification, as described in Ordering Provision 2.f., that either authorization to construct and operate a source of air emissions has been obtained or that construction/operation has ceased until such time that appropriate authorization is obtained.
- f. Genesis shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.d. and 2.e. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Genesis shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.d. and 2.e. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Rose Luna-Pirtle, Air Section Manager
Texas Commission on Environmental Quality
Laredo Regional Office
707 East Calton Road, Suite 304
Laredo, Texas 78041-3887

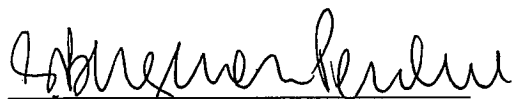
3. The provisions of this Agreed Order shall apply to and be binding upon Genesis. Genesis is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If Genesis fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Genesis's failure to comply is not a violation of this Agreed Order. Genesis shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Genesis shall notify the Executive Director within seven days after Genesis becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Genesis shall be made in writing to the Executive Director. Extensions are not effective until Genesis receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Genesis in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T. CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Genesis, or three days after the date on which the Commission mails notice of the Order to Genesis, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/15/2009


Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or Genesis's failure to timely pay the penalty amount, may result in:

- A negative impact on Genesis's compliance history;
- Greater scrutiny of any permit applications submitted by Genesis;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Genesis;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Genesis; and
- TCEQ seeking other relief as authorized by law.

In addition, I understand that any falsification of any compliance documents may result in criminal prosecution



Signature

Hugo Ruiz

Name (Printed or typed)
Authorized representative of
Genesis Quality Aggregates, Ltd.

2/24/09

Date

Superintendent of Operations

Title